

June 8, 2007

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF BOATING AND OCEAN RECREATION

BASELINE ENVIRONMENTAL STUDY OF THE WAIANAE COAST

SOLICITATION NO. RFP-06-07-DLNR

Sealed proposals will be received up to 4:00 p.m. (HST) on Monday June 25, 2007 at the Department of Land and Natural Resources, Office of the Chairperson, Attn: Laura Fabrey, 1151 Punchbowl Street, Room 130, Honolulu, HI 96813

Questions relating to this request for proposal may be directed to Laura Fabrey, phone (808) 587-0407.

NOTICE TO OFFERORS	3
I. INTRODUCTION	5
II. SIGNIFICANT DATES.....	5
III. OFFICIAL CONTACT PERSON	5
IV. OBJECTIVES	5
V. SCOPE OF SERVICES	6
VI. TIME SCHEDULE	10
VII. COMPENSATION	10
VIII. SPECIAL PROVISIONS.....	11
IX. CONTRACTOR REQUIREMENTS	12
X. SUBMISSION REQUIREMENTS	14
XI. PROJECT PROPOSAL	14
XII. EVALUATION OF PROPOSALS	15
XIII. EVALUATION CRITERIA	16
XIV. CONTRACT EXECUTION	17
EXHIBIT A - OFFER FORM OF-1	18
EXHIBIT B - ACT 6, 2005 Special Legislative Session.....	19

**NOTICE TO OFFERORS
REQUEST FOR PROPOSALS**

**DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION**

Solicitation No. RFP-06-07-DLNR

Baseline Environmental Study of the Waianae Coast

Pursuant to the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes, the State of Hawaii Department of Land and Natural Resources (DLNR), Division of Boating and Ocean Recreation (DOBOR) is soliciting proposals to conduct a baseline environmental study of the Waianae Coast as required by Act 6 of the 2005 Special Legislative Session.

Project Description

DLNR is soliciting proposals for the development of a baseline environmental study of the Waianae coast from Kalaeloa to Kaena Point to identify ocean recreation user conflicts and issues and present recommendations, and strategies to address these conflicts. The Department will in turn use this baseline environmental study to designate and adopt rules for an ocean recreation management area for the Waianae Coast.

The Department has approximately \$100,000.00 allocated for this study. If the offeror believes that the project as defined within the “scope of service” may exceed the approximately \$100,000.00 allotted, the Department is requesting that the proposer’s proposal address what parts of the “scope of service” can be completed for \$100,000.00 and then give a separate cost for the remaining parts of the “scope of service” not addressed by the \$100,000.00. Funds over the approximately \$100,000.000 currently allocated for the study, are contingent on the Department receiving more funding for this project at a future date and are not guaranteed.

Requirements

Proposals shall be received up to 4:00 p.m. HST on Monday June 25, 2007 in the Department of Land and Natural Resources, Office of the Chairperson, Attn: Laura Fabrey, 1151 Punchbowl Street, Room 130, Honolulu, HI 96813. Proposal documents may be obtained from said office between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday except for State Holidays. Proposal documents may also be downloaded from the Department of Land and Natural Resources website at www.hawaii.gov/dlnr

All proposals must comply with Hawaii Administrative Rules (HAR) Section 3-122-112 “Responsibility of Offerors”. Thus, offeror is advised that if awarded a contract under this solicitation, offeror shall, upon award of the contract, have 6 calendar days to furnish proof of compliance with the requirements of 103D-310(c), HRS:

- 1) Chapter 237, tax clearance;
- 2) Chapter 383, unemployment insurance;
- 3) Chapter 386, workers’ compensation;
- 4) Chapter 392, temporary disability insurance;

- 5) Chapter 393, prepaid health care; and
- 6) One of the following:
 - a. Be registered and incorporated or organized under the laws of the State, hereinafter referred to as a “Hawaii Business”; or
 - b. Be registered to do business in the State, hereinafter referred to as a “compliant non-Hawaii business”.

Offerors are encouraged to carefully read the entire RFP. DLNR reserves the right to cancel the RFP and reject any and all submittals when it is in the best interest of DLNR. Any persons requiring special accommodation (e.g., large print materials, sign language interpreters) are asked to call (808) 587-0407.

BOARD OF LAND AND NATURAL RESOURCES

/s/ Allan A. Smith

Allan A. Smith, Interim Chairperson

I. INTRODUCTION

Through Act 6, Special Session Laws of Hawaii 2005 (Act 6), the legislature mandated DLNR to prepare a baseline environmental study of the Waianae Coast from Kalaeloa Point to Kaena Point as an informational document to be used to establish the boundaries of an ocean recreation management area (ORMA) and to draft recreational management area rules.

The purpose of Act 6 is to place a moratorium on the issuance of new commercial vessel permits in state small boat harbors involving ocean-related activities for ocean waters between Kalaeloa Point and Kaena Point until the boundaries of a Kalaeloa to Kaena ORMA are designated and administrative rules on recreational boating activities and commercial vessel activities are adopted.

The completion of a baseline environmental study is a prerequisite to the establishment of the boundaries of an ORMA and the adoption of specific ORMA rules.

The Department has approximately \$100,000.00 allocated for this study. If the offeror believes that the project as defined within the “scope of service” may exceed the approximately \$100,000.00 allotted, the Department is requesting that the proposer’s proposal address what parts of the “scope of service” can be completed for \$100,000.00 and then give a separate cost for the remaining parts of the “scope of service” not addressed by the \$100,000.00. Funds over the approximately \$100,000.000 currently allocated for the study, are contingent on the Department receiving funding for this project at a future date and are not guaranteed.

II. SIGNIFICANT DATES

Advertisement and Issuance of Request for Proposal	June 8, 2007
Proposals Due	June 25, 2007

III. OFFICIAL CONTACT PERSON

The official contact person for all communication regarding this RFP is:

Laura Fabrey
DLNR, Office of the Chairperson
1151 Punchbowl Street, Room 130
Honolulu, HI 96813
Telephone: (808) 587-0407
Fax: (808) 587-0390

IV. OBJECTIVES

The role of the contractor will be to prepare a baseline environmental study of the Waianae Coast. Act 6, Special Session Laws of Hawaii 2005, (Act 6) mandated DLNR to prepare a baseline environmental study of the Waianae Coast from Kalaeloa Point to Kaena Point as an informational document to be used to establish the boundaries of an ocean recreation

management area and to draft recreational management area rules. Working closely with DLNR, the Contractor will prepare a baseline study that addresses Act 6 and its requirements including identifying ocean recreation user conflicts and issues and presenting recommendations, and strategies to address these conflicts. The Department will in turn use this baseline environmental study to designate and adopt rules for an ocean recreation management area for the Waianae Coast.

The baseline study will need to creatively and effectively address the issues facing the Waianae Coast's ocean resources, and provide for a clear course of action by which the State of Hawaii can comprehensively manage the areas ocean resources.

V. SCOPE OF SERVICES

1. Review and become familiar with Act 6, Special Session Laws of Hawaii 2005 (Exhibit B).
2. Prepare and submit a final Work Plan to the STATE, including methodology, detailed schedule and budget for completing the baseline study, in close coordination with the STATE.
3. Prepare and submit a first draft of the baseline study to the STATE.

Act 6 mandates that the department prepare a baseline environmental study as an informational document to be used for the preparation of draft ORMA rules. Act 6 specifically addresses the content of the baseline study. At a minimum the baseline study must include the following:

- a. A summary sheet with a concise description of the following:
 - i. Significant beneficial and adverse impacts of ocean use activities in the area from Kalaeloa point to Kaena point (including cumulative impacts and secondary impacts);
 - ii. Proposed mitigation measures;
 - iii. Alternatives considered;
 - iv. Unresolved issues; and
 - v. Compatibility with land use plans and policies, and listing of permits or approvals.
- b. A separate and distinct section that includes a statement of purpose and need for the designation of an ocean recreation management area.
- c. The following information, to the extent necessary for evaluation and review of the cultural, environmental, social, and economic impacts:
 - i. A detailed map of the area from Kalaeloa point to Kaena point;
 - ii. A statement of objectives;
 - iii. A general description of the area's technical, economic, social, and environmental characteristics;
 - iv. Public funds or lands to be used for the designation;

- v. Phasing and timing of the designation;
 - vi. A summary of technical data, diagrams, and other information necessary to permit an evaluation of potential environmental impact by government agencies and the public; and
 - vii. A historic perspective.
- d. The following restrictions or limitations on ocean use or private recreational activities, set forth in detail:
- i. Sub-areas within any proposed ocean recreation management area where certain types of ocean use activities may be restricted or permitted;
 - ii. The number of permits, by permit type and vessel and passenger capacity, that may be issued for different types of ocean use activities;
 - iii. The months, days, and times that certain types of ocean use activities may be curtailed or prohibited; and
 - iv. Any other restrictions or limitations deemed appropriate.
- e. A procedure for the resolution of user conflicts between commercial ocean use activities and private recreational use of any ocean recreation management area.
- f. A rigorous exploration and objective evaluation of the environmental impacts of alternative actions. Particular attention shall be given to alternatives that might enhance environmental quality or avoid, reduce, or minimize some or all of the adverse environmental effects, costs, and risks and recreational and commercial use conflicts. Examples of alternatives include:
- i. No action;
 - ii. Requiring actions of a significantly different nature that would provide similar benefits with different environmental effects;
 - iii. Those related to different boundaries or details of the proposed area that present different environmental effects; and
 - iv. Postponing the designation of the area pending further study.
- In each case, the analysis shall be sufficiently detailed to allow the comparative evaluation of the environmental benefits, costs, and risks of the proposed area designation and each reasonable alternative.
- g. A description of setting of any ocean recreation management area, including a description of the environment in the vicinity of the area, as it exists before the designation of the area, from both a local and regional perspective. Special emphasis shall be placed on environmental resources that are rare or unique to the region and the area (including natural or human-made resources of historic, archaeological, or aesthetic significance). Specific reference to related land-based projects, public and private, existent or planned in the region shall also be included for purposes of examining the possible overall cumulative effects of the designation of the area. The report shall identify, where appropriate, population and growth characteristics of the affected region and any population and growth assumptions used to justify the action

and determine secondary population and growth effects resulting from the proposed designation and its alternatives. In any event, it is essential that the sources of data used to identify, qualify, or evaluate any and all cultural, environmental, societal, and economic consequences be expressly noted.

- h. A statement of the relationship of the proposed designation of the area to land use plans, policies, and controls for the affected area. Discussion of how the proposed designation may conform or conflict with objectives and specific terms of approved or proposed land use plans, policies, and controls, if any, for the area affected shall be included. Where a conflict or inconsistency exists, the baseline environmental study shall describe the extent to which the report has reconciled its proposed designation with the plan, policy, or control and the reasons why the report has decided to proceed, notwithstanding the absence of full reconciliation.
- i. In a separate and distinct section, a description of the relationship between local short-term uses of the marine environment and the maintenance and enhancement of long-term productivity of the marine environment. The extent to which the proposed action involves trade-offs among short-term and long-term gains and losses shall be discussed. The discussion shall include the extent to which the proposed designation forecloses future options, narrows the range of beneficial uses of the environment, or poses long-term risks to health or safety. In this context, short-term and long-term do not necessarily refer to any fixed time periods, but shall be viewed in terms of the environmentally significant consequences of the proposed action.
- j. A discussion of the resolution of conflicts between recreational use of the area by residents of the area and commercial ocean use activities.
- k. In a separate and distinct section, a description of all irreversible and irretrievable commitments of resources that would be involved in the proposed designation of the ocean recreation management area should it be implemented. Identification of unavoidable effects and the extent to which the action makes use of non-renewable resources as a result of the designation or irreversibly curtails the range of potential uses of the environment shall also be included. The possibility of environmental accidents resulting from any phase of the designation and maintenance of the ocean recreation management area shall also be considered.
- l. All probable adverse environmental effects that cannot be avoided and a statement addressing these problems. Any adverse effects, such as water or air pollution, urban congestion, user conflicts, threats to public health, or other consequences adverse to environmental goals and guidelines established by environmental response laws, coastal zone management laws, pollution control and abatement laws, and environmental policy such as that found in chapters 128D, 205A, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I,

342J, 342L, 342P, and 344, Hawaii Revised Statutes, shall be included, including those effects discussed in other actions of this paragraph that are adverse and unavoidable under the proposed designation and rules. Also, the rationale for proceeding with a proposed designation, notwithstanding unavoidable effects, shall be clearly set forth in this section.

- m. Other interests and considerations of governmental policies that are thought to offset the adverse effects of the proposed designation. The baseline environmental study shall also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed designation that would avoid some or all of the adverse environmental effects.
 - n. Mitigation measures proposed to avoid, minimize, rectify, or reduce impacts and user conflicts, including provision for compensation for losses of cultural, community, historical, archaeological, and fish and wildlife resources, including the acquisition of land, waters, and interests therein. Description of any mitigation measures to reduce significant, unavoidable, or adverse effects to insignificant levels, and the basis for considering these levels acceptable shall be included. Where a particular mitigation measure has been chosen from among several alternatives, the measures shall be discussed and reasons given for the choice made. Included, where possible and appropriate, shall be specific reference to the timing of each step proposed to be taken in the mitigation process, what performance bonds, if any, may be posted, and what other provisions are proposed to ensure that the mitigation measures will, in fact, be taken.
 - o. A separate and distinct section that summarizes unresolved issues and contains either a discussion of how the issues will be resolved prior to commencement of the designation or what overriding reasons there are for proceeding without resolving the problems.
 - p. A separate and distinct section that contains a list identifying all governmental agencies, other organizations, and private individuals consulted in the preparation of the baseline environmental study and the identity of the persons, firms, or agency assisting in the preparation of the baseline environmental study, by contract or other authorization, shall be disclosed.
 - q. A separate and distinct section that contains reproductions of all substantive comments and responses made during the consultation process. A list of those persons or agencies that were consulted and had no comment shall be included in the baseline environmental study.
4. Attain public review and comments on the first draft of the baseline study.

5. In consultation with the STATE, prepare a second draft baseline study that incorporates comments and issues raised by the STATE and public review.
6. Submit to the STATE a final draft of the baseline study, in both hard copy and electronic version in Microsoft Word format.
7. Other mutually agreed upon work deemed necessary to the preparation of the baseline study.

VI. TIME SCHEDULE

1. The Department would like to have the baseline study completed as soon as possible.
2. All proposals shall submit a time schedule for the completion of all major tasks. The timeline shall include but not be limited to: description of each task, duration of each task, schedule of tasks, milestones and schedule of periodic progress reports with dates for submission.

VII. COMPENSATION

1. Award will be made on a firm, fixed fee, including all taxes.
2. The proposal shall be proceed and shall include a budget in accordance with the section entitled "Project Proposal".
3. The Department has approximately \$100,000.00 allocated for this study. If the offeror believes that the project as defined within the "scope of service" may exceed the approximately \$100,000.00 allotted, the Department is requesting that the proposer's proposal address what parts of the "scope of service" can be completed for \$100,000.00 and then give a separate cost for the remaining parts of the "scope of service" not addressed by the \$100,000.00.

Funds over the approximately \$100,000.000 currently allocated for the study, are contingent on the Department receiving funding for this project at a future date and are not guaranteed.

4. Payment shall be made in predetermined installments contingent on the STATE's approval of specific deliverables or progress reports.
5. The CONTRACTOR shall be required to obtain a current tax clearance from the State of Hawaii Department of Taxation and the Internal Revenue Service prior to entering into a contract with the STATE and again to receive final payment.

VIII. SPECIAL PROVISIONS

1. Special Conditions:
 - a. All work must comply with all applicable State, County, and Federal regulations, codes and guidelines.
 - b. This RFP is issued under the provisions of the Hawaii Revised Statutes (HRS), Chapter 103D and Subchapter 3-122, HAR. All Offerors are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any Offeror shall constitute admission of such knowledge on the part of such Offeror.
 - c. The shall be in accordance with the General Terms and Conditions developed by the Attorney General's office (Form AG2-GC(1/01)), included by reference and available on-line at:
<http://www2.hawaii.gov/bidfiles/generalconditions1.pdf>
 - d. The CONTRACTOR must assure and be responsible for the continuity of service activities in the vent of staff illness, medical emergencies, vacancies, or other situations that result in program resources that are less than proposed and contracted for. The CONTRACTOR must not require nor depend on the STATE's staff to provide services in the event that program resources are not available due to the above situations.
 - e. When a disagreement arises between the Offeror and the STATE in regards to the performance of specific service requirements within contract specifications, the wishes of the STATE shall prevail. Failure on the part of the CONTRACTOR to comply shall be deemed cause for corrective action and subject to contractual remedies.
 - f. DLNR reserves the right to reduce, amend, or expand the "Scope of Work".
 - g. Part or all of this RFP and the successful proposal may be incorporated into the final contract.
2. Required Review:

Perspective Offeror shall carefully review this solicitation for defects and questionable or objectionable matter. Questions concerning defects and questionable or objectionable matter shall be received prior to the Proposal Due Date indicated under the "Significant Dates" section of the RFP.
3. Cancellation of RFP and Proposal Rejection:

The STATE reserves the right to cancel this RFP and to reject any and all proposals in whole or in part when it is determined to be in the best interest of the STATE, as provided in Section 3-122-95 through 3-122-97, HAR.
4. Proposal Opening:

Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The Offeror's proposals shall be open to pubic inspection upon posting of award. All proposals and other material submitted by offerors become property of the State.

IX. CONTRACTOR REQUIREMENTS

1. HRS 237 - Tax Clearance Requirements:

Pursuant to §103D-328, HRS, the chosen operator shall be required to obtain a current tax clearance certificate issued by the State of Hawaii Department of Taxation (DOTAX) and the Internal Revenue Service (IRS) prior to entering into a contract with the State and again to receive final payment.

The certificate shall have an original green certified copy stamp, and shall be valid for six (6) months from the most recent approval stamp date on the certificate. It must be valid on the date it is received by DLNR. (Note: Tax clearances are valid for six (6) months for purposes of contract execution. If the tax clearance certificate submitted with the application is no longer valid at the time of contract execution, organization will need to acquire and submit a new certificate).

The tax clearance certificate may be obtained on the State of Hawaii, DOTAX TAX CLEARANCE APPLICATION FORM A-6 (Rev. 2005) which is available at the DOTAX and IRS offices in the State of Hawaii of the DOTAX website, and by mail or fax:

DOTAX Website: http://www.state.hi.us/tax/a1_1alphalist.htm

DOTAX Forms by Fax: (808) 587-4242

DOTAX Forms by Mail: P.O. Box 259 Honolulu, HI 96809

Completed tax clearance applications may be mailed, faxed, or submitted in person to the DOTAX, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX: (808) 587-1488 IRS: (808) 539-1573

It is recommended that the "Tax Clearance Application," Form A-6, be mailed to a DOTAX district office as soon as possible, as the process may take 21 calendar days before a tax clearance is received.

The application for the clearance is the responsibility of the potential operators, and must be submitted directly to the DOTAX or IRS and not to DLNR. However the tax clearance certificate shall be submitted to DLNR directly.

2. HRS Chapters 383 (Unemployment Insurance), 386 (Worker's Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements:

Pursuant to §103D-310(c), HRS, the chosen operator shall be required to submit an approved certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue and must be valid on the date it is received by DLNR. A photocopy of the certificate is acceptable to DLNR.

The certificate of compliance shall be obtained on the State of Hawaii, DLIR APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR, Form LR #27, which is available at: <http://hawaii.gov/labor/forms/DCD-LIR27.pdf> or at the neighbor island DLIR District Office.

The application for the certificate is the responsibility of the potential operator and must be submitted directly to DLIR and not to DLNR. The DLIR will return the form to the operator who in turn shall submit the certificate to DLNR.

3. Compliance with §103D-310(c) (1) and (2), HRS:

Pursuant to section 3-122-112, HAR, the operator shall be required to submit a CERTIFICATE OF GOOD STANDING (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (DCCA – BREG). The Certificate is valid for six (6) months from date of issue and must be valid on the date it is received by DLNR. A photocopy of the certificate is acceptable to DLNR.

To obtain the Certificate, the operator must first be registered with DCCA – BREG. A sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate.

Online business registration and the Certificate are available at <http://www.hawaii.gov/dcca/areas/breg>. To register or obtain the Certificate by phone, call (808) 586-2727 (M-F 7:45 to 4:30 HST). Operators are advised that there are costs associated with registering and obtaining the Certificate.

Timely Submission of all Certificates: Offerors are encouraged to immediately apply for the above certificates, and if possible to submit all certificates with their proposal. Upon written award of the contract, contractor has 6 calendar days to submit valid certificates. If valid certificates are not submitted within 6 calendar days, an offer otherwise responsive and responsible may not receive the award.

Final Agreement Requirements: Contractor is required to submit a valid tax clearance certificate for final payment on the contract. A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

In addition to a tax clearance certificate, an original “Certification of Compliance for Final Payment” (SPO Form-22), will be required for final payment. A copy of the SPO Form-22 is available at www.spo.hawaii.gov. Select “Forms for Vendors/Contractors” from the Procurement of Goods, Service and Construction – Chapter 103D, HRS, menu.

X. SUBMISSION REQUIREMENTS

1. Offeror is requested to submit its Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs (DCCA), if applicable, and to indicate exact legal name in the appropriate space on the Offer Form OF-1, Exhibit A. Failure to do so may delay proposal execution of the contract.
2. The Original plus two (2) copies (total – three (3) copies) of the proposal shall be submitted in a sealed envelope to:
DLNR – Office of the Chairperson
Attn: Laura Fabrey
1151 Punchbowl Street, Room 130
Honolulu, Hawaii 96813
4. Costs for developing the proposal are solely the responsibility of the Offeror, whether or not any award results from this solicitation. The State of Hawaii will not reimburse such costs.
5. "Solicitation No. RFP-06-07-DLNR" shall be referenced on the outside of the sealed proposals. Faxed or emailed proposals shall not be accepted.

XI. PROJECT PROPOSAL

The project proposal shall include, but not be limited to:

1. Offer Form OF-1 (Exhibit A)
2. Qualifications:
 - a. Statement of consultant's qualifications to accomplish project objectives and tasks as described in the RFP; a statement of these qualifications should be supported by a resume identifying how the consultant's qualifications meet these requirements;
 - b. A general statement identifying the consultant's specialized experience and technical competence for the services and tasks identified under "Scope of Services."
 - c. A list of key personnel who will be dedicated to this project and information on their background.
3. Scope of Work:
 - a. A detailed plan to effectively carryout the tasks described in the "Scope of Services" section of the RFP. The Department has approximately \$100,000.00 allocated for this study. If the offeror believes that the project as defined within the "scope of service" may exceed the approximately \$100,000.00 allotted, the Department is requesting that the proposer's proposal address first what parts of the "scope of service" can be completed

for \$100,000.00 and secondly what parts of the “scope of service” not completed for \$100,000 could be completed and at what cost.

Funds over the approximately \$100,000.000 currently allocated for the study, are contingent on the Department receiving more funding for this project at a future date and are not guaranteed.

4. Time Schedule:
 - a. The Department would like to have the baseline study completed as soon as possible. Thus, the proposal shall include a time schedule, which reflects the most efficient use of time possible to effectively carryout the tasks described in the “Scope of Services” section of the RFP. The timeline shall include but not be limited to: description of each task, duration of each task, schedule of takes, milestones and schedule of periodic progress reports with dates for submission.
5. Compensation:
 - a. The proposal shall be priced and include a budget for tasks proposed;
 - b. The proposal shall be based on a firm fixed fee;
 - c. The proposal shall recommend a progress payment schedule based on deliverables for all tasks as they are completed. Payments shall be made on predetermined progress payments contingent on the STATE’s approval of specified deliverables of progress reports;
 - d. The Contractor shall be required to obtain a current tax clearance from the State of Hawaii Department of Taxation (DOTAX) and the Internal Revenue Service (IRS), an approved certificate of compliance form LR #27, issued by the Hawaii State Department of Labor and Industrial Relations (DLIR) and a Certificate of Good Standing (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (DCCA – BREG) within 6 calendar days of receiving a notice of award for this contract. Offerors are encouraged to immediately apply for these required document and if possible to include these documents with their proposal.

XII. EVALUATION OF PROPOSALS

An evaluation committee selected by the Chairperson shall evaluate all proposals. The evaluation will be based solely on the evaluation criteria set forth in this RFP.

Before the merits of each proposal are evaluated, the evaluation committee shall evaluate each proposal to determine whether it complies with, and is responsive to, the RFP description and instructions. At this stage, proposals will also be reviewed for timeliness of submission, completeness, and compliance with the requirements and qualifications specified in this document.

Proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable. Discussion may be conducted with priority listed Offerors who submit proposals determined to be acceptable or potentially acceptable of being selected for award, but proposals may be accepted without such discussions.

If during discussions there is a need for any substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate such clarification or change. Addenda to the RFP shall be distributed only to priority listed Offerors. These Offerors shall be permitted to submit new proposals or to amend those submitted.

The date and time for the Offerors to submit their best and final offers, if necessary, will be determined and made known. If Offeror does not submit a notice of withdrawal or another best and final offer, the Offeror's immediate previous offer will be considered as their best and final offer.

The STATE's acceptance of an offer, if any, will be made within ninety (90) calendar days after opening of proposals. Unless extended by mutual agreement, the Offeror's proposal shall remain firm for ninety (90) days.

XIII. EVALUATION CRITERIA

The evaluation committee shall evaluate proposals in accordance with the RFP and based on the following general criteria:

1. Minimum Criteria for Proposal Responsiveness:
 - a. Submitting incomplete proposal document or failure to sign the proposal; documents may be justification for rejection of a proposal.
 - b. Failure to respond or comply with the specifics provided in RFP or requirements provided by statutes or law may be justification for rejection of a proposal.
2. Proposal Evaluation Criteria:

The committee shall evaluate proposals based on the following general criteria (Total possible points shown in parentheses):

 - a. Qualifications/Experience:
 - i. Demonstrated knowledge, familiarity and experience in Hawaii with coastal and ocean resource planning and management, and ocean user conflict issues (20).
 - ii. Experience in coordinating and cooperating with multiple groups including government agencies, community groups, businesses, organizations and other interested parties. (20)
 - iii. Demonstrated experience in community outreach including conducting public meetings and briefings. (20)

- b. Proposal:
 - i. Innovative approach (20)
 - ii. Effectiveness of work plan to solicit and incorporate public input into the final Baseline Study. (20)
- c. Price:
 - i. Ability to address “Scope of Services, V.1.” within the \$100,000 allocated budget. (10)
 - ii. Ability to address “Scope of Services, V.2.” within the \$100,000 allocated budget. (10)
 - iii. Ability to address “Scope of Services, V.3.” within the \$100,000 allocated budget. (170) (10 points for each item addressed under “Scope of Services, V.3. a. – q.)
 - iv. Ability to address “Scope of Services, V.4.” within the \$100,000 allocated budget. (20)
 - v. Ability to address “Scope of Services, V.5.” within the \$100,000 allocated budget. (20)
 - vi. Ability to address “Scope of Services, V.6.” within the \$100,000 allocated budget. (20)
- d. Timeliness:
 - i. Ability to address the “Scope of Services” in a timely manner (50)

TOTAL POSSIBLE POINTS: 400

XIV. CONTRACT EXECUTION

The successful proposer shall be required to enter into a contract with the Department of Land and Natural Resources. Prior to contract execution, the Board of Land and Natural Resources must approve the final contract. After Board approval, a Notice to Proceed specifying the contract commencement date will be executed. No work is to be undertaken by the Contractor prior to the commencement date specified on the Notice to Proceed. The State is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to official date.

EXHIBIT A - OFFER FORM OF-1

Department of Land and Natural Resources
Office of the Chairperson
1151 Punchbowl Street, Room 130
Honolulu, Hawaii 96813

Dear Ms. Laura Fabrey:

The undersigned has carefully read and understands the terms and condition specified in this Request for Proposals (Solicitation No. RFP-06-07-DLNR) attached hereto and in the General Terms and Conditions developed by the Attorney General's office (Form AG2-CG(1/01), by reference made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibition State contracts, and 2) he/she is certifying that the information contained within the proposal is true and accurate, and 3) he/she is certifying that the price submitted was (were) independently arrived at without collusion.

The undersigned represents: (check one only)

- ☐ A Hawaii business incorporated or organized under the laws of the State of Hawaii or
☐ A compliant Non-Hawaii business not incorporated or organized under the laws of the State of Hawaii, is or shall be registered at the State of Hawaii DCCA-BERG to do business in the State of Hawaii. State of Incorporation: _____

Offeror is:

- ☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ Joint Venture ☐ Other _____

Federal I.D. No.: _____

Hawaii General Excise Tax License I.D. No. _____

Business Address (street address): _____

City, State, Zip Code: _____

Date: _____

Respectably Submitted:

(x) _____

Authorized (Original) Signature

Telephone No.: _____

* _____

Name and Title

Fax No.: _____

Exact Legal name of Company (Offeror)

Email Address: _____

* If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the award contract will be executed.

EXHIBIT B - ACT 6, 2005 Special Legislative Session

Report Title:

Waianae Coast Environmental Study

Description:

Authorizes a baseline environmental study of the Waianae Coast ocean area and establishes a moratorium on the issuance of new commercial vessel permits in the area. (CD1)

THE SENATE

TWENTY-THIRD LEGISLATURE, 2005

STATE OF HAWAII

S.B. NO. 1262
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO THE WAIANAE COAST.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
HAWAII:**

SECTION 1. The legislature finds it a matter of concern that along the Waianae coast, the growing population of west Oahu and the visitor industry are affecting the traditional uses of the area and are having cumulative economic, environmental, social, and cultural effects on the many communities along this coastline.

The legislature finds that the increased usage of beach parks and state boating facilities to accommodate commercial ocean recreation activities between Kalaeloa and Kaena has had a significant impact on traditional commercial fishing activities, as well as other non-commercial ocean recreational activities.

The legislature finds that the ocean waters in this area should be designated by the department of land and natural resources as an ocean recreation management area to reduce user conflicts, maintain overall public safety, and to regulate commercial activities by placing limitations on the locations, times, and types of ocean recreation activities that are permitted.

The purpose of this Act is to place a moratorium on the issuance of new commercial vessel permits in state small boat harbors involving ocean-related activities for ocean waters between Kalaeloa point and Kaena point until the boundaries of a Kalaeloa to Kaena ocean recreation management area are designated and administrative rules on recreational boating activities and commercial vessel activities are adopted. However, the completion of a baseline environmental study is a prerequisite to the establishment of the boundaries of an ocean recreation management area and the adoption of the ocean recreation management area rules. The limited resources of the state prohibit funding for this baseline environmental study at this time. Accordingly, the legislature intends to seek a funding source to ensure that this important baseline environmental study is performed.

SECTION 2. The department of land and natural resources shall not issue any state small boat harbor facility commercial permits for vessels engaged in ocean use activities in the area from Kalaeloa point to Kaena point that would exceed the total number of permits already issued as of the effective date of this Act, until the boundaries of an ocean recreational management area for the area from Kalaeloa point to Kaena point are determined and ocean recreation management area rules are adopted pursuant to this section and chapter 91, Hawaii Revised Statutes.

SECTION 3. The department shall prepare a baseline environmental study as an informational document to be used for the preparation of draft ocean recreation management area rules in accordance with the following procedures. The baseline environmental study shall include:

(1) A summary sheet with a concise description of the following:

(A) Significant beneficial and adverse impacts of ocean use activities in the area from Kalaeloa point to Kaena point

(including cumulative impacts and secondary impacts);

(B) Proposed mitigation measures;

(C) Alternatives considered;

(D) Unresolved issues; and

(E) Compatibility with land use plans and policies, and listing of permits or approvals;

(2) A separate and distinct section that includes a statement of purpose and need for the designation of an ocean recreation management area;

(3) The following information, to the extent necessary for evaluation and review of the cultural, environmental, social, and economic impacts:

(A) A detailed map of the area from Kalaeloa point to Kaena point;

(B) A statement of objectives;

(C) A general description of the area's technical, economic, social, and environmental characteristics;

(D) Public funds or lands to be used for the designation;

(E) Phasing and timing of the designation;

(F) A summary of technical data, diagrams, and other information necessary to permit an evaluation of potential environmental impact by government agencies and the public; and

(G) A historic perspective;

(4) The following restrictions or limitations on ocean use or private recreational activities, set forth in detail:

(A) Sub-areas within any proposed ocean recreation management area where certain types of ocean use activities may be restricted or permitted;

(B) The number of permits, by permit type and vessel and passenger capacity, that may be issued for different types of ocean use activities;

(C) The months, days, and times that certain types of ocean use activities may be curtailed or prohibited; and

(D) Any other restrictions or limitations that the department deems appropriate;

(5) A procedure for the resolution of user conflicts between commercial ocean use activities and private recreational use of any ocean recreation management area;

(6) A rigorous exploration and objective evaluation of the environmental impacts of alternative actions. Particular attention shall be given to alternatives that might enhance environmental quality or avoid, reduce, or minimize some or all of the adverse environmental effects, costs, and risks and recreational and commercial use conflicts. Examples of alternatives include:

(A) No action;

(B) Requiring actions of a significantly different nature that would provide similar benefits with different environmental effects;

(C) Those related to different boundaries or details of the proposed area that present different environmental effects; and

(D) Postponing the designation of the area pending further study.

In each case, the analysis shall be sufficiently detailed to allow the

comparative evaluation of the environmental benefits, costs, and risks of the proposed area designation and each reasonable alternative;

(7) A description of setting of any ocean recreation management area, including a description of the environment in the vicinity of the area, as it exists before the designation of the area, from both a local and regional perspective. Special emphasis shall be placed on environmental resources that are rare or unique to the region and the area (including natural or human-made resources of historic, archaeological, or aesthetic significance). Specific reference to related land-based projects, public and private, existent or planned in the region shall also be included for purposes of examining the possible overall cumulative effects of the designation of the area. The department shall identify, where appropriate, population and growth characteristics of the affected region and any population and growth assumptions used to justify the action and determine secondary population and growth effects resulting from the proposed designation and its alternatives. In any event, it is essential that the sources of data used to identify, qualify, or evaluate any and all cultural, environmental, societal, and economic consequences be expressly noted;

(8) A statement of the relationship of the proposed designation of the area to land use plans, policies, and controls for the affected area. Discussion of how the proposed designation may conform or conflict with objectives and specific terms of approved or proposed land use plans, policies, and controls, if any, for the area affected shall be included. Where a conflict or inconsistency exists, the baseline environmental study shall describe the extent to which the department has reconciled its proposed designation with the plan, policy, or control and the reasons why the department has decided to proceed, notwithstanding the absence of full reconciliation;

(9) In a separate and distinct section, a description of the relationship between local short-term uses of the marine environment and the maintenance and enhancement of long-term productivity of the marine

environment. The extent to which the proposed action involves trade-offs among short-term and long-term gains and losses shall be discussed. The discussion shall include the extent to which the proposed designation forecloses future options, narrows the range of beneficial uses of the environment, or poses long-term risks to health or safety. In this context, short-term and long-term do not necessarily refer to any fixed time periods, but shall be viewed in terms of the environmentally significant consequences of the proposed action;

(10) A discussion of the resolution of conflicts between recreational use of the area by residents of the area and commercial ocean use activities;

(11) In a separate and distinct section, a description of all irreversible and irretrievable commitments of resources that would be involved in the proposed designation of the ocean recreation management area should it be implemented. Identification of unavoidable effects and the extent to which the action makes use of non-renewable resources as a result of the designation or irreversibly curtails the range of potential uses of the environment shall also be included. The possibility of environmental accidents resulting from any phase of the designation and maintenance of the ocean recreation management area shall also be considered;

(12) All probable adverse environmental effects that cannot be avoided and a statement addressing these problems. Any adverse effects, such as water or air pollution, urban congestion, user conflicts, threats to public health, or other consequences adverse to environmental goals and guidelines established by environmental response laws, coastal zone management laws, pollution control and abatement laws, and environmental policy such as that found in chapters 128D, 205A, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, and 344, Hawaii Revised Statutes, shall be included, including those effects discussed in other actions of this paragraph that are adverse and unavoidable under the proposed designation and rules. Also, the rationale for proceeding with a proposed designation, notwithstanding unavoidable effects, shall be clearly set forth in this section;

(13) Other interests and considerations of governmental policies that are thought to offset the adverse effects of the proposed designation. The baseline environmental study shall also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed designation that would avoid some or all of the adverse environmental effects;

(14) Mitigation measures proposed to avoid, minimize, rectify, or reduce impacts and user conflicts, including provision for compensation for losses of cultural, community, historical, archaeological, and fish and wildlife resources, including the acquisition of land, waters, and interests therein. Description of any mitigation measures to reduce significant, unavoidable, or adverse effects to insignificant levels, and the basis for considering these levels acceptable shall be included. Where a particular mitigation measure has been chosen from among several alternatives, the measures shall be discussed and reasons given for the choice made. Included, where possible and appropriate, shall be specific reference to the timing of each step proposed to be taken in the mitigation process, what performance bonds, if any, may be posted, and what other provisions are proposed to ensure that the mitigation measures will, in fact, be taken;

(15) A separate and distinct section that summarizes unresolved issues and contains either a discussion of how the issues will be resolved prior to commencement of the designation or what overriding reasons there are for proceeding without resolving the problems;

(16) A separate and distinct section that contains a list identifying all governmental agencies, other organizations, and private individuals consulted in the preparation of the baseline environmental study and the identity of the persons, firms, or agency assisting in the preparation of the baseline environmental study, by contract or other authorization, shall be disclosed; and

(17) A separate and distinct section that contains reproductions of all substantive comments and responses made during the consultation process. A list

of those persons or agencies who were consulted and had no comment shall be included in the baseline environmental study.

SECTION 4. The final designation of the ocean recreation management area and rules for this area shall be adopted by the department pursuant to chapter 91, Hawaii Revised Statutes, and this Act and shall include any sub-areas or restricted areas. The department shall maintain rulemaking files that shall include but not be limited to the following:

- (1) All letters received containing substantive questions, comments, or recommendations and, as applicable, summaries of any scoping meetings held;
- (2) A list of persons, organizations, and public agencies commenting on the draft rules;
- (3) The responses of the department to each substantive question, comment, or recommendation received during the rules adoption process; and
- (4) The final rules written in a format that allows the reader to easily distinguish changes made to the text of the draft rules.

SECTION 5. For the purposes of this Act, "ocean use activities" means commercial operation of thrill craft, high-speed boating, para-sailing, water sledding, sailing and snorkeling tours, glassbottom boat tours, dolphin tours, or any other similar commercial ocean recreational activity for hire.

SECTION 6. The department of land and natural resources shall submit the baseline environmental study to the legislature not later than twenty days prior to the convening of the regular session of 2007.

SECTION 7. This Act shall take effect upon its approval.